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C O N F I D E N T I A L SECTION 01 OF 05 YEREVAN 000431

SIPDIS

DEPARTMENT FOR DRL, EUR/CARC

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TAGS: [PGOV](#) [PHUM](#) [PREL](#) [KCRM](#) [KDEM](#) [KJUS](#) [AM](#)
SUBJECT: ARMENIA'S OMBUDSMAN ISSUES REPORT CRITICAL OF
MARCH 1 EVENTS

REF: YEREVAN 218

Classified By: CDA Robin Phillips, reasons 1.4 (b,d).

SUMMARY

¶1. (C) On April 25, Armenia's Ombudsman issued a critical report on election-related developments in Armenia that called into question the legality of actions taken by ex-President Kocharian on March 1. The report also criticized Armenia's first president Levon Ter-Petrosian (LTP) for exploiting the election to foment civil discord. The report noticeably omitted any mention of then-Prime Minister Serzh Sargsian having a role in the crisis. The Ombudsman affirmed the need for an independent investigation into March 1. While both the government and opposition objected to the report, pro-opposition media published extensive excerpts from it. At a 12 May briefing for diplomats, the Ombudsman urged the international community to push harder for action from the authorities, lest Armenia become like Uzbekistan. END SUMMARY.

THE PRE-ELECTION PERIOD

¶2. (SBU) In the first of the four-part "Ad-Hoc Public Report on the 2008 February 19 Presidential Elections and Post-Election Developments," Armen Harutiunian, the Armenian government's Human Rights Defender (Ombudsman) detailed how the lack of access to impartial information about the election affected citizens' "social-psychological" state during and after the election leading up to the fatal March 1 crackdown on LTP supporters. Harutiunian criticized LTP for "exploiting" his supporters' discontent and channeling it against the authorities. The Ombudsman noted, however, that LTP was not the source of this discontent, which instead came from a widespread public malaise about the direction of the country. He said people felt marginalized by a system of centralized, monopolistic, and oligarchic governance that gave only a select few tremendous economic and political influence over society.

KOCHARIAN'S BLUNDERS

¶3. (SBU) The Ombudsman also slammed the near-sighted policy of the authorities, and the media under their control, for ignoring the core concerns of Armenian citizens. Harutiunian stated that while the opposition was tapping into people's growing anxieties about the country's state of affairs, the authorities continued to talk about economic progress and

construction booms whose benefits have not been felt by the majority in society. He also found that the authorities' misguided campaign to discredit the opposition had the reverse effect, rendering LTP's opposition movement more popular than it otherwise would have been.

ELECTION DAY

¶4. (SBU) In part two of the report, regarding election day itself, the Ombudsman described the complaints that his office received on election day, and the violence that marred the vote. Surprisingly most of the official complaints that the Ombudsman presented involved the alleged misdoings by LTP supporters. He also assailed OSCE's Office for Democratic Institutions and Human Rights (ODIHR) for its inconsistent reporting on the conduct of the elections. In addition, the Ombudsman cited the continued shortcomings of electoral legislation, in particular its provisions on vote recounts and the way that electoral commissions are formed. During a May 12 meeting with the resident diplomatic corps, the Ombudsman opined that ideally at least half of such commissions should comprise members of the opposition.

MARCH 1 AND BEYOND

¶5. (SBU) In the immediate aftermath of the fatal March 1 events, the Ombudsman publicly challenged the authorities' version of events -- that opposition supporters of LTP were

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armed. This allegation drew a rapid, stinging response from then-President Kocharian, who called Harutiunian his "worst personnel decision" and sternly reminded him not to forget that he "works for Armenia, not Strasbourg," a reference to the seat of the Council of Europe. In the ad-hoc report, Harutiunian maintained and elaborated upon this initial criticism, claiming that almost two months after the deadly clashes, Armenian police have failed to present any evidence that protestors bore and used arms. Harutiunian also pointed out that the police have failed to present any explanation into the deaths of the eight civilians who all had fractured skulls caused by gunshot wounds.

MORNING CRACKDOWN TRIGGERS FATALITIES

¶6. (SBU) The Ombudsman reiterated his initial position that the fatal events which transpired on the second half of March 1 were triggered by the violent crackdown on opposition supporters in the morning when hundreds of riot police cleared 2,000 encamped LTP supporters from Freedom Square. Challenging police claims that demonstrators did not allow police to search the square, the Ombudsman cited numerous inconsistencies in official statements that sought to justify the use of force. Some of these follow:

-- If the firearms that were confiscated from demonstrators and repeatedly shown on TV truly existed, why did demonstrators not use them to repel the police as they cleared the square?

-- If the police actions were legal, why did they fail to properly record them on camera and why did police break cameras of some of the reporters present?

-- If the police were going to confiscate weapons, they should have launched a criminal case; and if they were going only to check the square for weapons, then they should have done it later in the presence of witnesses; (NOTE: The clearing of the square took place at 6:20 am, right after sunrise. END NOTE.)

-- Why did police at the square handle the "confiscated" weapons with their bare hands, as was later shown on TV?

-- If the police were only going to examine the scene -- without prior knowledge of a crackdown -- how did they manage to mobilize such numerous police personnel in full riot gear in mere minutes?

-- Why has not one single criminal case been launched against police for the excessive use of force, when there were numerous reports that police beat even random passersby, including teenagers (not to mention the demonstrators who had a right to leave the site of the demonstration freely)?

POLICE ACTIONS ILLEGAL

17. (SBU) In the third part of the report, the Ombudsman analyzed the developments beginning in the afternoon on March 1 and the 20-day state of emergency decreed by President Kocharian late on March 1. In the crowds of thousands of opposition supporters, the Ombudsman noted the presence of provocateurs who were trying to destabilize the situation. He further noted that the force used by police at that time -- in trying to break up the large number of protesters who had gathered near the French Embassy -- should be considered illegal, since police did not explain or prove that the gathering posed a public threat. The use of military police in the dispersal of the crowd around the same time also contravened Armenian law. Below are a couple of other issues raised in this section of the report:

-- The looting of shops and the burning of vehicles took place under questionable and controversial circumstances; there were no proven linkages between the looters and protesters; the protesters near the French Embassy did not attack any of the nearby stores; (NOTE: The most extensive violence, car burnings, and store lootings mostly took place some distance, perhaps half a kilometer, from the main body of protesters. END NOTE)

-- An individual investigation into each case of the ten reported deaths should be carried out; if the police used

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firearms to defend themselves, why could they have not deployed other non-lethal means?

STATE OF EMERGENCY IN CAPITAL ONLY?

18. (SBU) According to the Ombudsman, even though the state of emergency was declared applicable only for Yerevan, some restrictions were applied in other parts of the country, most notably the restriction on freedom of assembly. The Ombudsman cited the restrictions on entry into Yerevan where police stopped vehicles on highway arteries leading into the capital; the shutting down of websites of opposition media outlets; illegal censorship of papers; no control over the state-run media that regularly published critical, offensive and discrediting information about the opposition; distorted presentation of the statements of international organizations and officials. The Ombudsman also declared that the strict controls on assembly enacted during the state of emergency were meant as a tool to extend the curbs past the end of the emergency period.

POLITICALLY MOTIVATED ARRESTS

19. (SBU) In the final section of his report, the Ombudsman described the complaints his office received regarding

groundless or politicized charges against individuals; of unlawful police custody and violations of procedures including inhumane treatment and beating of detainees; failure to provide a defense lawyer to individuals apprehended in accordance with the country's criminal code; and illegitimate restrictions on the liberty and personal rights of individuals participating in activities organized on Northern Avenue. (NOTE: Solidarity marches, or "political promenades" as locals called them, took place every evening on Northern Avenue after March 1, where opposition supporters gathered during strolls along the central boulevard that runs into Freedom Square. For a number of days police arbitrarily seized and detained dozens of these non-protest protesters -- people who were simply chatting in small groups, reading newspapers, or playing backgammon or chess in what came to be understood as an opposition zone -- arbitrarily selecting subjects to detain in an apparent strategy to deter larger crowds from gathering. These detainees were fingerprinted, photographed, lectured, and then eventually released after several hours at the police station. END NOTE.) In reference to the police randomly detaining participants in these marches, the Ombudsman demanded answers to the following questions:

-- What was the crime of citizens strolling on Northern Avenue?

-- If the citizens had committed a crime, then what legal measures were taken and what procedural documents were compiled in regarding the apprehensions and the crime?

-- If citizens had committed a crime, based on what criteria or offenses were only some apprehended others left unmolested?

REAL REFORMS NEEDED, OR ELSE

110. (SBU) The Ombudsman made recommendations to the authorities to improve the situation in Armenia. At the same time he warned them against resorting to mere window-dressing, which he said would only worsen the situation further. He called on the authorities to do the following:

-- to ensure government accountability before the public and provide an even playing field to the opposition;

-- to reform electoral legislation, focusing on recount procedures and composition of electoral commissions;

-- to guarantee freedom of expression and media;

-- to strike down laws that groundlessly restrict human rights and civic freedoms; (NOTE: This was in reference to the SOE-enacted amendments to the law on rallies, marches, and protests. END NOTE.)

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-- to safeguard the constitutional principle of equal rights for all citizens, to eliminate economic monopolies, and to put an end to an oligarchic system of governance;

-- to fight against the causes, rather than consequences of the March 1 events, and create independent inquiry into these events.

REACTIONS

111. (SBU) Initial reactions to the report were quite negative, including from the opposition. Offended at the criticism leveled at LTP, the radical opposition Haykakan Zhamanak daily speculated that the report was part of a

smoke-and-mirrors campaign by the authorities to bolster the Ombudsman's credentials. By doing so, the government was positing the Ombudsman to lead the eventual inquiry into March 1 where, according to Haykakan Zhamanak, Harutiunian would let the authorities off the hook. The Ombudsman repeatedly rejected such speculation, saying it did not matter who led the investigation as long as certain procedures were put in place first, such as the participation of international experts and members of the opposition. As for an official response, Parliament Speaker Tigran Torosian poured cold water on the report and the possibility that Harutiunian would lead the inquiry, dryly remarking that the Ombudsman had "obviously said all he had to say" on the subject.

12 (SBU) Armen Musinian, LTP's spokesperson, also criticized the report, decrying the absence of any reference to ex-Prime Minister Sargsian. Musinian charged that as the president-elect, Sargsian also bore responsibility for March 1 and should have been included in the report. Larisa Alaverdian, the former Ombudsman and currently an MP from the opposition Heritage party, echoed Musinian, saying that the Speaker of the Parliament, national security organs, and Sargsian should all have been included in the report, as responsible as they were for the March 1 events. Striking a less strident tone, the opposition Republic party's Suren Surenyants) who was jailed and subsequently released during the election crisis -- commented that the report contained "tough evaluations" that can only have a positive influence.

THE MOMENT OF TRUTH

¶13. (C) At a private presentation of his report to report on May 12 to resident diplomats and chiefs of party for international organizations, Harutiunian stood firmly by his assessment. The Ombudsman gravely stated that March 1 had pulled down "the democratic facade" of Armenia's authoritarian system, and that Armenia could no longer conceal its political realities from the outside world. Harutiunian said "the moment of truth" had come when Armenia would either move toward democracy or dictatorship. He added that the opposition resorted to street actions only because it did not have access to any other form of political expression. Harutiunian also cast doubt on the ability of the parliament to defuse the situation or allow the opposition more space, remarking that parliament is a rubber stamp for the president that hardly reflects the country's political demographics where half of the populace is in opposition to the authorities.

¶14. (C) The Ombudsman discussed the authorities' responses to his report, characterizing them as very negative. As he told DAS Bryza in March (reftel) after President Kocharian lashed out him for his initial assessment of March 1, Harutiunian said he was not worried about any fallout, now that he has the backing of the international community and his feeling that Sargsian's administration is more tolerant of differing views. He avowed that he had felt compelled to ask the questions he did, since they were circulating in society "without a voice." Harutiunian added that it was now up to the authorities to answer them, though he does not expect any breakthroughs. In fact, Harutiunian said he was aware that various law enforcement organs were already preparing rebuttals to his findings.

¶15. (C) Despite the criticisms that his report generated, the Ombudsman thought that it had increased popular trust in his institution, with his office registering a two-fold increase in the number of complaints received, and a 400 percent

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increase in visitors to his website. He also confided that his ties to the police have significantly worsened in the wake of the report, with the latter no longer responding to

his requests for information.

¶16. (C) Harutiunian told Emboff separately that he had just returned from the United States, where he had meetings with the Armenian Diaspora. He said he told both that Armenia's future will be "lost" if the country continues down its current path, and the authorities were wrong to conceptually separate human rights from national security since both are intertwined. He said he has been urging all of his international interlocutors to push harder on the authorities, lest they continue backsliding on political freedoms to the point Armenia takes the path of Uzbekistan.

COMMENT

¶17. (C) As Ombudsman, Harutiunian has come a long way in the space of several months, from being popularly identified as "Kocharian's man" to becoming the only government official who openly criticizes the authorities. His report injected into the public domain what needed to be said about March 1, but had not been, due to the media restrictions and fear of political persecution. Harutiunian's appeal to the international community belies the helplessness that well-intentioned officials here feel about getting the government to respond the way it should. While we welcome Harutiunian's growing confidence -- he is finally fulfilling his constitutional mandate -- we also recognize it may eventually rub the authorities the wrong way. His predecessor, Larisa Allaverdian, was pushed out of the Ombudsman position after she began to do her job too well for authorities' liking. END COMMENT.

PHILLIPS